

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Reginal Gerrill Toomer Bey,	)	CIVIL ACTION NO. 2:17-1004-RMG-BM
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Magistrate John Duff, Sergeant Steven	)	
Evans, North Charleton Police Department,	)	
and North Charleston Municipal Court,	)	
	)	
Defendants.	)	
_____	)	

This action has been filed by the Plaintiff, pro se, alleging violations of his constitutional rights by the named Defendants. By Order dated July 25, 2017, Plaintiff was given an opportunity to provide the necessary information and paperwork to bring the case into proper form for evaluation and possible service of process. Plaintiff was warned that failure to provide the necessary information, including a proper completion of his Complaint form, within the timetable set forth in the Order would subject the case to dismissal. See also, e.g. Brockington v. South Carolina Dept. of Social Service, No. 17-1028, 2017 WL 1531633 (4<sup>th</sup> Cir. April 28, 2017) [Noting that pro se Plaintiff should be provided an opportunity to amend his complaint to cure defects prior to a dismissal]; Evans v. Richardson, No. 17-1144, 2017 WL 2294447 (4<sup>th</sup> Cir. May 25, 2017) [same]; Breyan v. All Medical Staff, No. 17-6186, 2017 WL 2365232 (4<sup>th</sup> Cir. May 31, 2017)



[same]. Plaintiff was subsequently provided an extension of time to complete this process. See Court Docket No. 12.

However, the time to bring this case into proper form lapsed, with Plaintiff having failed to provide a response to the proper form Order, or to contact the Court in any way since seeking his extension. Therefore, a Report and Recommendation was entered recommending that this action be dismissed, without prejudice, in accordance with Rule 41, Fed.R.Civ.P. See Link v. Wabash R.R. Co., 370 U.S. 626 (1962). Even so, that Report and Recommendation also provided that if the Plaintiff satisfied the requirements for proceeding with this case as were set forth in the proper form Order within the time set forth for filing objections to the Report and Recommendation, the Clerk was to vacate the Report and Recommendation and return the file to the undersigned for further handling.

In response to the Report and Recommendation, Plaintiff filed an “objection” and requested a “continuance”. Plaintiff states in his objection that he had been incarcerated until September 6, 2017, and had therefore been unable to bring his case into proper form. Based on this response, **IT IS ORDERED** that the previously issued Report and Recommendation is **vacated**. Plaintiff shall have twenty (20) days to bring his case into proper form as is set forth in the Court’s original proper form Order, a copy of which is attached hereto and incorporated herein. **Plaintiff is specifically advised that if he fails to bring this case into proper form within the time set forth, a recommendation for dismissal of his case will be entered.** See Ballard v. Carlson, 882 F.2d 93, 95-96 (4<sup>th</sup> Cir. 1989), cert. denied sub nom, Ballard v. Volunteers of America, 493 U.S. 1084 (1990) [holding that district court's dismissal following an explicit and reasonable warning was not an abuse of discretion].



If Plaintiff provides this Court with the items specified in the proper form Order, the undersigned will then review the file to determine if service of process should be authorized.

**IT IS SO ORDERED.**



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Bristow Marchant  
United States Magistrate Judge

September 22, 2017  
Charleston, South Carolina

